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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE LUIS ALLEGRIA, III,

Defendant and Appellant.

2d Crim. No. B209455
(Super. Ct. No. 2007036527)
(Ventura County)

Jose Luis Allegria, III appeals from the judgment following a guilty plea to failing to register as a convicted sex offender (Pen. Code, § 290, subd. (a)(1)(A)),¹ making a false financial statement (§ 532a, subd. (1)), and falsely obtaining a driver's license (§ 529.7). Pursuant to a written plea agreement, appellant admitted suffering two prior strike convictions within the meaning of the Three Strikes law (§§ 667, subds. (c)(1) & (e)(1)); 1170.12, subds. (a)(1) & (c)(1)). The trial court struck a prior strike conviction and sentenced appellant to 32 months state prison. Appellant was ordered to pay restitution fines of \$500 (§§ 1202.4, subd. (b); 1202.45) and awarded 435 days presentence custody credit.

We appointed counsel to represent appellant in this appeal. After counsel's examination of the record, he filed an opening brief in which no issues were raised.

¹ All statutory references are to the Penal Code.

On November 26, 2008, we advised appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. Appellant submitted a letter brief stating that his trial attorney failed to file a motion to dismiss the prior strike convictions (see § 1385; *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497) and failed to advise him that his prison credits would be limited by the prior strike conviction (see § 667, subd. (c)(5)). Appellant further contends that he received ineffective assistance of counsel in 1993 when he pled guilty to two counts of lewd acts with children (§ 288, subd. (a)).

We reject the claims because the record does not indicate that trial counsel's performance was deficient. (*People v. Cunningham* (2001) 25 Cal.4th 926, 1003; *People v. Kraft* (2000) 23 Cal.4th 978, 1068-1069.) Before the change of plea was entered appellant acknowledged that the maxim sentence was 25 years to life and that in admitting the prior strike conviction, the total amount of prison credits awarded would not exceed one-fifth the sentence term (§ 667, subd. (c)(5)). The written change of plea agreement and reporter's transcript show that appellant freely, voluntarily and knowingly admitted the prior strike conviction.

We have reviewed the record and are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 125-126.)

The judgment is affirmed.

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YEGAN, Acting P.J.

We concur:

COFFEE, J.

PERREN, J.

Bruce A. Clark, Judge
Superior Court County of Ventura

California Appellate Project, under appointment by the Court of Appeal,
Jonathan B. Steiner, Executive Director and Richard B. Lennon, Staff Attorney for
Defendant and Appellant.

No appearance for Respondent.